

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:06-CR-00091-FL-1
NO. 4:12-CV-00021-FL

CARLOS ANTONIO REVIS,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent)

ORDER

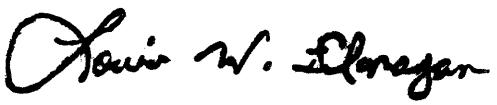
This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge William A. Webb, regarding petitioner’s motion to vacate (DE # 50) and respondent’s motion to dismiss (DE #46). No objections to the M&R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

The court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, petitioner's motion is DENIED, defendant's motion is GRANTED, and this matter is DISMISSED. The clerk of court is directed to close the case.

With respect to certificate of appealability, where as here a petitioner's claims are dismissed on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) that jurists of reason would find it debatable whether the petition [or motion] states a valid claim of denial of a constitutional right and (2) that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Rose v. Lee*, 252 F.3d 676,

684 (4th Cir. 2001) (quotations omitted). After reviewing the claims presented in the § 2255 motion in light of the applicable standard, the court concludes that reasonable jurists would not find the court's treatment of any of petitioner's claims debatable or wrong and that none of the issues presented by petitioner are adequate to deserve encouragement to proceed further. Accordingly, a certificate of appealability is DENIED.

SO ORDERED, this the 26th day of December, 2012.



LOUISE W. FLANAGAN
United States District Judge